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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/739,708	12/20/2000	Paul M. Brennan	91436-312	3270

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EXAMINER

KNOWLIN, THJUAN P

ART UNIT	PAPER NUMBER
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2642

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DATE MAILED: 09/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/739,708

Applicant(s)

BRENNAN ET AL.

Examiner

Thjuan P Knowlin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Han et al (US 5,818,903), in view of Alajajian (US 5,668,880).
3. In regards to claims 1, 6, 7, 9, 10, 11, 12, 16, 22, 23, 27, 30, and 31, Han discloses a method for handling an unsuccessful synchronous call attempt from a calling party to a called party, said method comprising: monitoring a synchronous call attempt from said calling party to said called party (col. 1-2 lines 47-39); determining at least one communication address related to said called party (col. 6 lines 28-44); and dropping said synchronous call attempt to said called party (col. 2 lines 3-14 and col. 7 lines 24-42). Han, however, does not disclose receiving a message composed by the calling party; and sending said message to said determined communication address. Alajajian, however, does disclose receiving a message composed by the calling party; and sending said message to said determined communication address (col. 7 lines 9-30, col. 13 lines 35-44, col. 22 lines 37-61, and col. 24-25 lines 66-9). Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to employ the method with the feature of being able to receive and send messages composed by the calling party. This feature would allow the calling party to be able to

compose and send messages pertaining to the failure of unsuccessful call attempts, without having to wait for the terminal (caller's device) to send the message.

4. In regards to claims 2, 3, 17, and 18, Han discloses the method and computer readable medium, further comprising determining that said synchronous call attempt to said called party is unsuccessful (col. 3 lines 30-36, col. 7 lines 6-15, and col. 9 lines 18-25).

5. In regards to claims 4, 19, and 28, Alajajian discloses the method and computer readable medium, wherein said indication comprises said calling party pressing a predetermined key or keys on a communication device (col. 24-25 lines 66-9).

6. In regards to claims 5, 20, and 29, Alajajian discloses the method and computer readable medium, wherein said indication comprises said calling party using a vocal command (col. 26 lines 22-43).

7. In regards to claims 8 and 21, Han discloses the method and computer readable medium, wherein said at least one communication address comprises at least one of a telephone number, pager number, e-mail address, voice messaging address, mobile phone number, and Internet instant messaging address (col. 6 lines 28-44).

8. In regards to claims 13, 14, 15, 24, 25, and 26, Alajajian discloses the method and computer readable medium, wherein said receiving a message composed by a calling party (col. 7 lines 9-30, col. 13 lines 35-44, col. 22 lines 37-61, and col. 24-25 lines 66-9) comprises: where said at least one communication address related to the called party comprises a plurality of communication addresses, presenting said calling party with a list of messaging options based on said plurality of communication

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addresses; allowing the calling party to select a messaging option for use; and commencing a message compose session related to said selected messaging option and pre-filling a communication address for said message with a communication address related to said messaging option (col. 10 lines 23-34 and col. 10 lines 50-54).

Response to Arguments

9. Applicant's arguments filed July 07, 2003 have been fully considered but they are not persuasive. Applicant admits that though Han apparently recites that a message is transmitted from a mobile station (in an abstract sense and not in the context of the subject matter of Applicant's invention), there is, however, no disclosure reciting the receiving of the message, or reciting the message was "composed" by a calling party, as arranged as they are in the Applicant's claims. Examiner agrees with this statement, which is therefore, why Alajajian was used to overcome this limitation in the present claims. Alajajian discloses receiving a message composed by the calling party; and sending said message to said determined communication address (col. 7 lines 9-30, col. 13 lines 35-44, col. 22 lines 37-61, and col. 24-25 lines 66-9). Applicant further states that Alajajian receiving of messages is not related to an unsuccessful synchronous call attempt, and therefore, there is no motivation to combine Han and Alajajian, and therefore, none of the references, taken alone or in combination, disclose, teach or suggest Applicant's claimed invention. Examiner respectfully disagrees with this argument. Alajajian does not address responses or actions taken when the communications are unsuccessful, however, Han does disclose a response or action

when the communication attempt is unsuccessful (col. 3 lines 30-36, col. 7 lines 6-15, and col. 9 lines 18-25). In order to combine two references and establish motivation, each and every limitation within the claim, does not have to be found in both references. If one reference teaches one feature, and the other reference teaches the other feature, as long as the features are disclosed in the claim and found in the respective reference, the two references are capable of being combined and used to form a proper 35 U.S.C. 103(a) rejection.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


11. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thjuan P Knowlin whose telephone number is (703) 308-1727. The examiner can normally be reached on Mon-Fri 8:00-4:30pm.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (703)305-4731. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

14. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

Thjuan P. Knowlin
September 17, 2003


AHMAD F. MATAR
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2700